

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

**AGREEMENTS WITH
NORTH ATLANTIC TREATY ORGANIZATION ALLIES**

Report No. 93-119

June 21, 1993

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Department of Defense

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Acronyms

| | |
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| EUCOM | U.S. European Command |
| LANTCOM | U.S. Atlantic Command |
| MOP | Memorandum of Policy |
| NATO | North Atlantic Treaty Organization |
| NAVEUR | U.S. Naval Forces, Europe |
| USAFE | U.S. Air Forces, Europe |
| USAREUR | U.S. Army, Europe and Seventh Army |



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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June 21, 1993

**MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE
(INTERNATIONAL SECURITY AFFAIRS)
COMPTROLLER OF THE DEPARTMENT OF DEFENSE
GENERAL COUNSEL, DEPARTMENT OF DEFENSE
DIRECTOR, JOINT STAFF**

**SUBJECT: Audit Report on Agreements with North Atlantic Treaty Organization
Allies (Report No. 93-119)**

We are providing this final report for your information and use. It discusses a significant deficiency in the state of the records for managing and administering international agreements.

A draft of this report was provided to the addressees for comment on March 31, 1993. Replies were received from the Assistant Secretary of Defense (International Security Affairs) on May 21, 1993; General Counsel on April 16, 1993; and from the Joint Staff on May 11, 1993. A reply was not received from the Comptroller of the Department of Defense as of June 11, 1993.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. A chart provided at the end of the finding identifies the unresolved recommendations and the specific requirements to be addressed in your comments on this final report. Recommendations are subject to resolution in accordance with DoD Directive 7650.3 in the event of nonconcurrence or failure to comment. Your comments are requested to be provided by August 20, 1993.

The courtesies extended to the audit staff are appreciated. If you have any questions on this audit, please contact Mr. Harlan M. Geyer at (703) 692-2830 (DSN 222-2830) or Ms. Evelyn R. Klemstine at (703) 692-2831 (DSN 222-2831). The distribution of this report is listed in Appendix C.

Robert J. Lieberman
Assistant Inspector General
for Auditing

Office of the Inspector General, DoD

Report No. 93-119
(Project No. 2RA-0063)

June 21, 1993

AGREEMENTS WITH NORTH ATLANTIC TREATY ORGANIZATION ALLIES

EXECUTIVE SUMMARY

Introduction. DoD officials negotiate and conclude international agreements to support military requirements. The Case Act, title 1, United States Code, section 112b, "United States International Agreements; Transmission to Congress," 1972, requires prompt reporting to the Congress of all international agreements to which the United States is a party. DoD Directive 5530.3, "International Agreements," June 11, 1987, establishes DoD's policy and procedures for negotiating and concluding international agreements. Agreements made under "The North Atlantic Treaty Organization [NATO] Mutual Support Act of 1979" are also considered international agreements.

Objectives. The overall objective of the audit was to evaluate the status of and continuing need for U.S./NATO agreements and determine whether those agreements supported the new NATO multinational force structure. Specifically, the objective included evaluating agreements pertaining to the storage of pre-positioned stocks, communications, petroleum, nuclear material, and infrastructure. Also, we reviewed applicable internal controls.

Audit Results. The state of the records for managing and administering international agreements was so deficient that we judged them to be not in condition for audit. A viable system to record, control, and link active agreements to financial records does not exist in the DoD. The propriety, financial consequences, interrelationships, and status of international agreements, as well as the need for their continuation in many cases, cannot be readily determined.

Internal Controls. The audit identified a material internal control weakness as defined by Public Law 97-255, Office of Management and Budget Circular A-123, and DoD Directive 5010.38. The material weakness occurred in the administration and accounting procedures for international agreements. See Part I for a description of the controls assessed and Part II of the report for details on the weakness.

Potential Benefits of Audit. Implementation of the recommendations will establish a system and process to manage and administer international agreements. Appendix A describes the specific benefits resulting from the audit.

Summary of Recommendations. We recommended that DoD Directive 5530.3, "International Agreements," be amended to include specific provisions for controlling and reconciling international agreements, their financial provisions, and the applicable financial records.

Management Comments. The Assistant Secretary of Defense (International Security Affairs) stated that due to the inherent complexity of international agreements, improvements can always be made in managing them. The Assistant Secretary stated that his office would work with the General Counsel to develop procedures that would

increase control over agreements. The General Counsel and the Director, Joint Staff, concurred with the finding and recommendations. Management comments were not received from the Comptroller of the Department of Defense.

Details on managements' comments and audit responses are in Part II of the report, and the full texts of managements' comments are in Part IV. The Assistant Secretary of Defense (International Security Affairs), General Counsel, and the Comptroller of the Department of Defense are requested to provide comments on unresolved issues by August 20, 1993.

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This report was prepared by the Readiness and Operational Support Directorate, Office of the Inspector General for Auditing, DoD. Copies of the report can be obtained from the Secondary Reports Distribution Unit, Audit Planning and Technical Support Directorate (703) 614-6303 (DSN 224-6303).

Part I - Introduction

Background

DoD officials negotiate and conclude international agreements to support military requirements. The agreements could involve the use of a host nation's airfields, facilities, medical services, petroleum, and telecommunications. Agreements are usually written and concluded with one or more foreign governments or international organizations. The signing of an international agreement signifies the intent of the parties to be bound by international law. Agreements made under "The North Atlantic Treaty Organization [NATO] Mutual Support Act of 1979" are also considered international agreements.

Policy. The Case Act, title 1, United States Code, section 112b, "United States International Agreements; Transmissions to Congress," 1972, requires prompt reporting to the Congress of all international agreements to which the United States is a party. The Department of State is primarily responsible for implementing the Case Act and has established a policy of centralized control and decentralized execution of international agreements. The Department of Defense has implemented that policy through DoD Directive 5530.3, "International Agreements," June 11, 1987, which establishes DoD's policy and procedures for negotiating and concluding international agreements. The Directive requires that a DoD Component¹ entering into an agreement send a copy of the agreement to the Department of State and the DoD General Counsel no later than 20 days after the agreement is enacted. The Department of State uses the information provided by DoD to determine whether an agreement should be reported to Congress. The DoD General Counsel is required to maintain the agreements in a central repository and to update annually the General Counsel master index of all agreements concluded by DoD personnel.

Responsibilities. DoD Directive 5530.3 establishes the DoD's Components' level of authority to negotiate and conclude international agreements. The Directive prescribes each DoD Component's approval authority over specific categories of international agreements. No DoD directives specify how an agreement should be administered once an agreement has been concluded. However, it has been DoD's unwritten policy to delegate the administration of the agreement to the activity directly affected by the conditions of the concluded agreement.

NATO Mutual Support Act. The NATO Mutual Support Act was enacted to simplify the interchange of logistical support, supplies, and services between the United States and its Allies. The U.S. European Command (EUCOM) is responsible for negotiating mutual support agreements with NATO Allies. EUCOM's subordinate commands (U.S. Army, Europe and Seventh Army [USAREUR]; U.S. Air Forces, Europe [USAFE]; and U.S. Naval Forces, Europe [NAVEUR]) negotiate the implementing arrangements for the mutual support agreements concluded by EUCOM. The purchase, sale, or exchange of logistic support, supplies, and services can be accomplished by either a contract

¹ DoD Components are the offices of the Secretary of Defense, the Military Departments, the Joint Staff, the unified and specified commands, and the Defense agencies.

or requisition. The NATO Mutual Support Act establishes an annual ceiling for DoD of \$100 million in reimbursable credits and \$150 million in reimbursable liabilities. Weapon systems, major items of equipment, and the initial quantities of replacement parts and spares for major items of organizational equipment covered by tables of organization and equipment, tables of distribution and allowance, or equivalent documents may not be acquired or transferred under the NATO Mutual Support Act.

Objectives

The overall objective of the audit was to evaluate the status of and continuing need for U.S./NATO agreements and determine whether the agreements supported the new NATO multinational force structure. Specifically, we reviewed agreements pertaining to the storage of pre-positioned stocks, communications, petroleum, nuclear material, and infrastructure. Also, we reviewed applicable internal controls.

Scope

The audit was based on a sample of international agreements. We judgmentally selected for review international agreements from the EUCOM and LANTCOM master indexes of agreements. For the sample, we tracked the agreements from the unified commands to the agreements' appropriate subordinate command and supporting financial activity.

The audit was made from August through December 1992 at the organizations listed in Appendix B. This program audit was made in accordance with auditing standards issued by the Comptroller General of the United States as implemented by the Inspector General, DoD. Because of the deficient condition of the records disclosed in the early stages of the audit, we concluded our work at the completion of the survey fieldwork. Accordingly, the information in this report does not contain the normal depth of examination of evidential matter and substantive evaluation performed during a full audit.

Internal Controls

The audit identified a material internal control weakness as defined by Public Law 7-255, Office of Management and Budget Circular A-123, and DoD Directive 5010.38. Controls had not been established for the administration of concluded international agreements. The recommendations in this report, if implemented, will correct the weakness. The monetary benefits to be realized

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by implementing Recommendation 2. were not readily quantifiable because a system to reconcile international agreements to corresponding financial records did not exist. A copy of this report will be provided to the senior official responsible for internal controls within the offices of the Under Secretary of Defense for Policy and the Comptroller of the Department of Defense.

Prior Audits and Other Reviews

U.S. Army Audit Agency, Report No. EU 91-308, "International Support Agreements U.S. Army, Europe, and Seventh Army," September 10, 1991, states that USAREUR had not implemented procedures to properly administer and control international support agreements; reimbursement costs for support that had been furnished to international organizations had not been collected; reimbursable costs applicable to support or services furnished under international agreements were not properly computed or charged to the customer; and the system of internal management controls for international agreements were not effective. The report recommended that USAREUR develop and issue standard operating procedures for the management of agreement administration, identify all existing international agreements requiring reimbursements, instruct personnel on proper procedures for recording and processing collections, and issue supplemental guidance explaining costing procedures for computing applicable reimbursement rates. USAREUR concurred with the recommendations. However, our current audit showed that the reported deficiencies had not been corrected.

Office of the Inspector General, DoD, Audit Report No. 91-066, "United States-German Wartime Host Nation Support Agreement," March 1991, recommended that the Under Secretary of Defense for Policy request a bilateral review of the Agreement and its implementing technical arrangements. The purpose of the review was to determine whether cost-saving measures existed as a result of the changed threat in the European theater. The report also recommended that the Under Secretary of Defense for Acquisition, pending the results of the review, suspend all acquisition and construction support required by the Agreement and cancel existing procurement and construction contracts consistent with the results of the review. The Deputy Secretary of Defense agreed with the need for a bilateral review, which was subsequently implemented by EUCOM. The result was a 43-percent reduction in the number of German reservists (53,000 personnel) and a savings of \$186 million in U.S. procurement and new construction costs.

Other Matters of Interest

NATO Mutual Support Act. We reviewed eight NATO Mutual Support Act agreements, administered in fiscal years 1990 and 1991, to determine whether the supplies and services required by the agreements supported valid military

requirements and whether the agreements complied with the restrictions of the NATO Mutual Support Act. The eight agreements had been authorized by the Act and supported valid military requirements. The statutory limitation of \$150 million for U.S. purchases and \$100 million for U.S. sales had not been exceeded. Procedures were in place at USAREUR to ensure that NATO Mutual Support Act agreements were supported by a contract and their financial records. Unlike USAREUR, USAFE used the NATO Mutual Support Act agreement as the contractual document. USAFE assigned an appropriation account established by the finance center to each Mutual Support Act agreement. USAFE used the account numbers to track the financial obligations of the agreements. NAVEUR did not administer Navy agreements under the NATO Mutual Support Act during fiscal years 1990 and 1991.

Wartime Host Nation Support. In our follow-up work on Audit Report No. 91-066 discussed above, we reviewed the continuing need for the United States-German Wartime Host Nation Support agreement. The general agreement was concluded in April 1982; its implementing technical arrangements were completed in June 1986. The intent of the Wartime Host Nation Support agreement was to compensate for shortfalls in the U.S. combat service support force structure in Germany. The agreement is effective only against a Warsaw Pact² threat in times of crisis or war. The terms of the agreement state that after joint U.S. and German consultation, and in accordance with the NATO alert notification system, selected German reserve combat service support units would be mobilized. Those units would execute missions, within the scope of the agreement, levied by the supported U.S. commander. The agreement restricts German reservists to support U.S. Forces only during hostilities that are within the boundaries of Germany.

Under the terms of the agreement, the United States provides the equipment necessary for the German reserve units to perform their mission. The equipment requirements are based on the German Armed Forces tables of organization and equipment. Accordingly, to support the German reservists, the United States was required to procure 861 line items of equipment, 840 of which were from German sources. The United States was also required to pay a fee to the Germans for the operation and maintenance of the procured equipment. At the time of our audit, USAREUR and USAFE had budgeted approximately \$81 million for those expenses to cover fiscal years 1992 through 1996.

The United States-German Wartime Host Nation Support agreement narrowly focuses on supporting U.S. Forces deployed in Germany during a NATO/Warsaw Pact war and provides no other benefit to the United States. The U.S. is procuring and maintaining equipment in support of the agreement. Furthermore, at the time of the audit, the German Armed Forces were revising their tables of organization and equipment, which could result in additional procurement requirements for new equipment to support the agreement. U.S. base closures in Europe have reduced storage capacity within the theater; thus

² The Warsaw Pact included the former Soviet Union, Poland, East Germany, former Czechoslovakia, Hungary, and Romania.

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equipment procured under the agreement is now stored in open areas and is subjected to the deteriorating effects of the German climate. The threat of a global war scenario has now been replaced by the threat of multiple regional conflicts. Based on these factors, we believe that expenditures on the German reserve force may no longer be fiscally prudent.

Part II - Finding and Recommendations

Management of International Agreements

Records pertaining to the management and administration of concluded international agreements (hereafter referred to as agreements) applicable to DoD operations in the European theater were not in condition for audit. This condition occurred because a system and process to control and reconcile active agreements had not been established by the Assistant Secretary of Defense (International Security Affairs), the General Counsel, and the Comptroller of the Department of Defense. As a result, we were unable to verify the propriety of the acquisition and provision of materiel and services transacted under the authority of the agreements or the validity of the financial consequences of the transactions. Furthermore, specifics concerning the status of and continuing need for the agreements could not be determined.

Background

DoD Directive 5530.3 states that the Under Secretary of Defense for Policy shall:

... monitor the implementation of agreements in force and provide appropriate guidance, advice, and assistance to other DoD Components in the exercise of their responsibilities under such agreements.

However, DoD Directive 5530.3 and the Joint Staff's implementing provisions in Memorandum of Policy (MOP) 179, "International Agreements," February 5, 1988, do not state how an agreement should be managed once the agreement had been negotiated and concluded. The Military Departments' and the unified commands' implementing directives for agreements also did not define how agreements should be managed.

Controlling Agreements

EUCOM and LANTCOM did not have a focal point for controlling and managing agreements within their command structures and within their subordinate commands' jurisdictions. During our audit fieldwork, we were unable to track a selection of agreements from the unified commands' master indexes to the subordinate commands' master indexes. Unified and subordinate command officials used a descriptive title or the signature date to locate agreements when the need arose. However, many agreement titles were similar; often only key words of the title were used in the master indexes, and signature dates as reported on the various master indexes did not match.

Agreement Numbering. DoD Directive 5530.3, MOP 179, and the unified commands' implementing directives do not prescribe a uniform numbering system for controlling agreements. As a result, the DoD General Counsel, unified commands, and subordinate commands used various numbering systems for their master indexes, making it difficult for us to cross-reference agreements to appropriate records.

DoD General Counsel. The Office of the DoD General Counsel maintains the DoD master index of agreements. At the time of our audit, the master index contained approximately 2,550 agreements between the U.S. and NATO Allies. Agreements were grouped by country and were further divided into several categories. Agreements in each category were listed in sequential order based on the signature date.

EUCOM. EUCOM's master index contained approximately 3,250 agreements between the U.S. and NATO Allies. EUCOM maintained its master index of agreements by country. The agreements were listed chronologically based on either the signature date or effective date, whichever was earlier. EUCOM's numbering system for agreements included a two-letter country code followed by three numbers (for example, GE-530, which represents agreement number 530 with Germany). The agreements were then listed in sequential order by country. EUCOM's master index also identified the subordinate command responsible for administering the agreement.

USAREUR. The USAREUR master index contained approximately 500 agreements between the U.S. and NATO Allies. USAREUR divided its master index of agreements into two sections, unclassified and classified. Unclassified agreements were designated by the letter I, followed by three to five digits. Those agreements were listed by number in ascending order. Classified agreements were designated by the letters C, NC, NR, and NS, followed by three numbers. USAREUR components used various numbering systems because they were not aware of USAREUR's internal numbering system. Consequently, USAREUR's components could not cross-reference their indexes to the USAREUR master index. Further we could not cross-reference USAREUR's numbering system to the EUCOM master index.

USAFE. USAFE was developing its master index of agreements at the time of the audit. USAFE filed agreements by country. The filing system at USAFE was based on a two-letter country code and the date the agreement was signed. USAFE components used various numbering systems and were unaware of the internal USAFE numbering system. USAFE's numbering system for agreements could not be cross-referenced to the EUCOM master index. Likewise, we could not cross-reference USAFE components' numbering systems to the USAFE files.

NAVEUR. The NAVEUR master index contained approximately 450 agreements between the U.S. and NATO Allies. NAVEUR maintained its master index of agreements by country. NAVEUR used a two-letter country code followed by two or three numbers. The numbers were in ascending order based on the signature date or effective date, whichever was earlier. Because NAVEUR components were unaware of the numbering system

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used for NAVEUR's master index, they developed their own systems. Although NAVEUR's numbering system differed from EUCOM's, NAVEUR's master index had been cross-referenced to EUCOM's master index. However, we could not cross-reference NAVEUR components' numbering system to the NAVEUR master index.

LANTCOM. The LANTCOM master index contained approximately 230 agreements between the U.S. and NATO Allies. LANTCOM maintained its master index of agreements by country and listed agreements chronologically based on the effective date of the agreements. LANTCOM had not established a numbering system. Also, LANTCOM's master index did not identify the subordinate command responsible for implementing the agreements. LANTCOM's subordinate commands did not maintain their own master indexes. Consequently, we were unable to cross-referencing the LANTCOM's master index with any of its subordinate commands' master indexes.

Reviewing. The master indexes we obtained from the unified commands and their subordinate commands did not accurately reflect the status of agreements. The unified commands had not established an internal review process to ensure that active agreements that had expired were renewed or that terminated agreements were deleted from master indexes.

Active Agreements. Procedures were not in place for command personnel to review agreements that were due to expire. Support and services continued to be furnished by NATO Allies for some agreements, even though those agreements had expired. For example, an agreement between the U.S. Navy and the Royal Navy for communications support was due to expire on November 16, 1992. During our visit to NAVEUR in November 1992, NAVEUR officials were unaware that the agreement was due to expire and had made no effort to renew the agreement at that time. The agreement supports a valid NAVEUR military requirement; however, at the end of our fieldwork in December 1992, the agreement had not been renewed.

Terminated Agreements. The unified commands and their subordinate commands were not required to record the agreements that had been terminated during the year. This condition contributed to the problems that the unified commands had in controlling agreements. For example, EUCOM's master index contained numerous agreements that had been terminated by its subordinate commands, but had not been deleted from the EUCOM master index. Eight active petroleum agreements were listed on EUCOM's master index. Personnel at the 200th Theater Army Materiel Management Center, which was responsible for administering those agreements, stated that since 1979, six of the eight agreements had been terminated.

Agreements with Financial Provisions. EUCOM and LANTCOM had not established procedures to track an agreement to its corresponding financial records. Most agreements contained financial provisions, requiring that a disbursement, reimbursement, or collection be made by the command. The accounting records of the unified commands and their subordinate commands could not be reconciled to an agreement. As a result, we could not verify the execution of financial requirements.

Identification. An identification system to distinguish agreements with financial provisions from "no cost" agreements did not exist. The indexing systems used by the various commands did not denote whether a financial transaction was involved in administering an agreement. The commands had delegated administrative responsibilities for agreements to the activity-level personnel who received or provided the required support or service. Those personnel were often unfamiliar with the financial provisions of agreements. Without an identification system for agreements with financial provisions, administrative personnel cannot be alerted that a financial transaction for the agreement is required. As part of a uniform indexing system, an alphanumeric system should be used to categorize agreements by financial provision requirements. For example, the system could be constructed with:

- "N" for agreements without financial obligations,
- "D" for agreements with disbursement provisions,
- "R" for agreements with reimbursement provisions, and
- "C" for agreements with collection provisions.

This type of indexing would help ensure that agreements requiring accounting transactions are separated from those with "no cost" provisions.

Reconciling. Before the negotiation of an agreement, DoD Directive 5530.3 requires that the head of the DoD Component with the primary interest in negotiating and concluding the agreement prepare a fiscal memorandum. A fiscal memorandum specifies the estimated cost of each obligation proposed to be assumed by DoD in the agreement. However, DoD Directive 5530.3 does not require that the fiscal memorandum designate the responsible accounting activity, the disbursement account, and the reimbursement and collection of fees procedures. When the accounting office and appropriation account were not identified, the agreement administrator could not ensure that the proper financial transaction had been made. When the accounting office was not identified, personnel at the accounting office could not reconcile the agreement with its appropriate disbursement, reimbursement, or collection transaction document. None of the 58 agreements we reviewed identified the appropriation account.

Reporting. The unified commands and their subordinate commands did not require accounting offices to prepare reports detailing the disbursements, reimbursements, or collections made for agreements. Without the reports, agreement administrators could not monitor the financial transactions required by agreements.

Audit Trail. An audit trail did not exist to track the status of an agreement and to ensure that the agreement had been executed properly. For example, two communications agreements between the Commander in Chief, U.S. Naval Forces, Europe, and the Spanish Navy required the loan of U.S. Navy communications security equipment to the Spanish Navy. In return, the Spanish Navy was to establish a direct deposit, reimbursable account in U.S. dollars with the Disbursing Officer, Personnel Support Detachment, Rota Naval Base,

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Spain, for parts and repairs of the equipment. The initial deposit to the direct deposit, reimbursable account was to be \$1,000.00. NAVEUR communications officials stated that the communications equipment identified in the agreements had been upgraded, and they assumed that the agreement had been terminated. The property officer at the Naval Computer and Telecommunications Station-Rota could not verify that the equipment had been loaned. Furthermore, the property officer stated that it was not the policy of the Naval Computer and Telecommunications Station-Rota to notify an accounting office of equipment loaned to the Spanish Navy, even when a reimbursable account was to be established. The accounting office responsible for establishing the reimbursable account was unable to verify whether an account had been established. As a result, we were unable to verify whether the equipment had been loaned or returned and whether reimbursements had been collected.

Reconciling Master Indexes

EUCOM and LANTCOM had not established procedures to reconcile their master indexes with the master indexes of their subordinate commands. Active agreements maintained on the EUCOM master index were not on the subordinate commands' master indexes and vice versa. Agreements that had been terminated by the subordinate commands remained on the unified commands' master indexes. As a result, the EUCOM master index was incomplete and inaccurate. Periodic reconciliations and reviews of each master index within each unified command's jurisdiction must occur to ensure that indexes represent the most current active agreements.

Although DoD Directive 5530.3 requires that the unified commands annually submit a copy of their master indexes to the DoD General Counsel, it does not require that the master indexes be reconciled. We compared both EUCOM's and LANTCOM's master indexes to the master index maintained by the General Counsel. Agreements listed in the unified commands' indexes were not listed in the General Counsel's index. For example, 60 percent of the agreements identified on the EUCOM master index for Belgium were not on the General Counsel's master index. Similarly, 66 percent of the agreements identified on the LANTCOM master index for Iceland were not on the General Counsel's master index. Additionally, many of the agreements that had been terminated by the unified commands remained on the General Counsel's index. Annual reconciliations between the unified commands' master indexes and the General Counsel's master index should be required to ensure that the records on all agreements are properly maintained and that all agreements are appropriately reported to the Department of State and the Congress.

Summary

The U.S. military presence in Europe has undergone dramatic changes since the demise of the Soviet Union. Significant reductions in U.S. Forces; closures of military facilities; the shift from planning for a global war scenario to planning for multiple regional conflicts; and the increased spectrum of military operations, ranging from humanitarian aid to combat, have resulted in greater reliance on agreements with U.S. Allies. Accurate and complete records on agreements will become increasingly important in aiding military planners to respond to regional conflicts and disasters. The current administration of agreements does not allow for easy identification or accessibility to specific agreements, and there is no assurance that the financial provisions of an agreement have been properly accomplished. Managing, controlling, and reviewing agreements is critical to ensure that active agreements represent valid military requirements and that new or revised military requirements are amended in agreements, when applicable.

Recommendations, Management Comments, and Audit Response

1. We recommend that the Assistant Secretary of Defense (International Security Affairs) and the General Counsel, Department of Defense, amend DoD Directive 5530.3, "International Agreements," to include a management system for the administration and control of international agreements that:

a. Centralizes administrative oversight responsibilities for international agreements within the jurisdiction of each appropriate unified command.

Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary stated that such a management system was already in place. The legal office at each unified command is responsible for oversight of international agreements within the command. The response stated that contrary to the statement in the draft report, EUCOM Directive 5-13 "International Agreements; Authority and Responsibilities," February 16, 1988, paragraph 9.b., designates the EUCOM Legal Adviser as responsible for international agreements within EUCOM.

Audit Response. Although EUCOM Directive 5-13, paragraph 9.b. requires the office of the Legal Adviser to maintain a central repository of agreements concluded by EUCOM and its subordinate commands, the Directive does not delegate administrative oversight responsibilities for agreements to the office of the Legal Adviser. The Directive requires that the office of the Legal Adviser serve as a library of international agreements concluded within the unified

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command, not as the oversight administrator for EUCOM's agreements. We request that the Assistant Secretary of Defense (International Security Affairs) reconsider his position in response to the final report.

b. Provides a uniform numbering system that identifies financial provisions for international agreements.

The Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary nonconcurred, stating that the draft report seemed to imply that only a few agreements, and few provisions thereunder, have any financial implications. The response stated that in fact, many or most agreements, and many provisions thereunder, have some financial implications. For the information to be of any value, the costs would have to be consolidated in a central repository. The Assistant Secretary stated that he could not understand how the information would be consolidated from a wide variety of organizations that are not connected to the same computer.

Audit Response. The Assistant Secretary's response did not address the intent of the recommendation. The recommendation requires that a uniform numbering system be developed using an alphanumeric system to categorize agreements by financial provision requirements. That type of indexing would alert the organization responsible for administering agreements to the types of financial transactions contained in the agreement. We request that the Assistant Secretary reconsider his position on this recommendation.

c. Requires renumbering of existing international agreements to comply with the numbering system provided upon implementation of Recommendation 1.b.

The Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary nonconcurred for the reasons stated in Recommendation 1.b.. The response stated that it would be difficult to assign to international agreements numbers that would remain consistent throughout all levels of command. In addition, the benefit of such a system was not readily recognizable since international agreements were universally identified by agreement execution date.

Audit Response. We recognize that international agreements are universally identified outside the DoD by the execution date of the agreement. The intent of the recommendation was to establish a system for controlling agreements within DoD. As discussed in the report, the system of identifying agreements by their execution date has lead to a lack of control over DoD agreements. We found the system of identifying agreements by execution date labor-intensive when trying to cross-reference an agreement between a unified command and its subordinate commands. We request that the Assistant Secretary reconsider his position on this recommendation.

d. Requires periodic reviews of master indexes to ensure that the status of agreements is current.

The Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary concurred with the recommendation, stating he was under the impression such reviews were already being conducted, within the limited capabilities of the concerned command. The response stated that this requirement will be reemphasized.

Audit Response. We request that the Assistant Secretary state his plan of action for this recommendation and provide an implementation date.

e. Requires unified commands and their subordinate commands to prepare an annual list of terminated international agreements for the General Counsel.

The Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary concurred with the recommendation, but did not provide a completion date. We request an implementation date for the planned action.

f. Requires fiscal memorandums to state the designated accounting office, appropriation account, and reimbursement and collection of fees procedures.

The Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary nonconcurred with the recommendation, stating there would be numerous accounting activities and appropriation accounts under some agreements. Furthermore, the applicable accounting activity and appropriation account may not be known at the time the agreement is concluded and registered in the index.

Audit Response. This recommendation has been changed to reflect the General Counsel and Director, Joint Staff's response (discussed below) to the draft report. We request that the Assistant Secretary of Defense (International Security Affairs) comment on the revised recommendation in response to this report.

g. Requires annual reconciliations of unified commands' master indexes of international agreements with their subordinate commands' master indexes.

The Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary partially concurred with the recommendation, stating that an effort will be made to reconcile the master indexes; however, the purpose, use, and scope of the indexes is different for various levels of command, and therefore, the indexes may not necessarily be identical.

Audit Response. The Assistant Secretary's response did not address the intent of the recommendation. Making an effort to reconcile the master indexes is not the same as requiring the unified commands and their subordinate commands to reconcile their master indexes. We request that the Assistant Secretary reconsider his position on this recommendation.

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h. Requires annual reconciliations of unified commands' master indexes of international agreements with the General Counsel's master index.

The Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary partially concurred with the recommendation, stating that the same limitations as stated in his response to Recommendation 1.g. applied.

Audit Response. The Assistant Secretary's response did not address the intent of the recommendation. Making an effort to reconcile the master indexes is not the same as requiring the unified commands and the General Counsel to reconcile their master indexes. We request that the Assistant Secretary reconsider his position on this recommendation.

i. Requires DoD Components to annually review active international agreements to ensure that agreements support current military requirements.

The Assistant Secretary of Defense (International Security Affairs) Comments. The Assistant Secretary nonconcurred with the recommendation, stating that it is extremely difficult for a DoD Component to review an agreement and determine the degree of activity under that agreement. The response stated that the DoD Component could never be sure that there was not some element in DoD using that agreement. Implementation of the recommendation would require the DoD Components to dispatch a worldwide query to all levels of command on whether any organization is using the agreement. Unless the agreement has financial implications or has adverse provisions for the United States, there is no disadvantage to leaving it in force even if it is not being used.

Audit Response. Although there are a limited number of international agreements having worldwide implications, most agreements are limited in scope. Military planners are increasingly relying on international agreements to respond to a variety of regional crises. EUCOM has recognized that its host nation support agreements need to be revised to reflect the ongoing changes in the theater, and EUCOM is in the process of changing those agreements. However, host nation support agreements are only one type of international agreement, and reviewing agreements for their applicability in a changing environment should be an ongoing process. We request that the Assistant Secretary reconsider his position on this recommendation.

General Counsel Response. The Office of Deputy General Counsel (International Affairs and Intelligence) strongly supported the purpose of the audit and agreed with all the recommendations with minor caveats. The response stated that although the intent of Recommendation 1.f. is fully supported, it should be adopted and implemented in a manner different than written in the report, since the internal implementing procedures of a nation are not included in the text of an international agreement. As the DoD office with

designated responsibility for DoD Directive 5530.3, the General Counsel will shortly institute a comprehensive update of the Directive to address in some manner all the recommendations in the audit report.

Audit Response. We agree with the General Counsel that internal implementing procedures of a nation should not be included in the text of an international agreement. The recommendation has been revised in the final report to reflect the General Counsel's response to the draft report. We request that General Counsel comment on the revised recommendation in response to this report. We also request that General Counsel provide an estimated date of implementation for corrective actions in its response to the final report.

Joint Staff Response. The Director, Joint Staff, concurred in the report and recommendations. The response stated that the report implies that all major problems with the accounting and tracking of international agreements reside in the unified commands. The Joint Staff stated that the report should be amended to ensure that the management of fiscal tracking systems include all agreements concluded by appropriate Joint and Service organizations. The Director stated that if possible, the new comprehensive numbering, indexing, and reconciliation system should be designed as an automated information management system so that cross-referencing and updating could be more efficient. In addition, the response stated that the Comptroller of the Department of Defense should establish a system that utilizes existing DoD financial accounting systems to account for and report financial transactions made under the provisions of international agreements.

With respect to Recommendations 1.e. and 1.h., the Director stated that the annual reconciliations of master indexes with the General Counsel's index should automatically result in the identification of terminated agreements. Thus requiring a separate annual list of terminated agreements would be duplicative and unnecessary. With respect to Recommendation 1.f., the Joint Staff response recommended that the recommendation be changed to state "Requires activities that conclude international agreements to designate an accounting activity and, when applicable, an appropriation account for each international agreement." The recommendation as written in the report would require inappropriate disclosure of DoD internal operating procedures to U.S. Allies.

Audit Response. The recommendations in the report should correct the systemic deficiencies found in the management and control of international agreements. Although the audit sample was limited to the unified commands, we found the problems to be systemic throughout DoD because procedures were not in place to record, control, and link active agreements negotiated and concluded by DoD personnel to financial records.

Regarding Recommendations 1.e. and 1.h., although an annual reconciliation of Component master indexes with the General Counsel's should automatically result in the identification of terminated agreements, a prepared list of terminated agreements would simplify the reconciliation process. If DoD elects to design an automated information system for the management and control of agreements, such a list could be automatically generated.

Management of International Agreements

Regarding Recommendation 1.f., we agree with the Joint Staff that internal implementing procedures of a nation should not be included in the text of an international agreement. However, the Joint Staff's alternative recommendation would not correct the problem of historically documenting the designated accounting office for future reference. The recommendation has been revised in the final report to reflect the Joint Staff's response to the draft report.

2. We recommend that the Comptroller of the Department of Defense:

a. Establish a system that enables international agreements to be reconciled to their applicable financial records.

b. Establish procedures for the unified commands to prepare an annual report on the disbursements, reimbursements, or collections made for international agreements.

The Comptroller of the Department of Defense Comments. As of May 26, 1993, the Comptroller of the Department of Defense had not responded to Recommendations 2.a. and 2.b.

Audit Response. We request that written comments be provided on Recommendations 2.a. and 2.b. in response to the final report.

Response Requirements for Each Recommendation

| <u>Number</u> | <u>Addressee</u> | <u>Response to Final Report Should Include</u> | | |
|---------------|--|--|----------------------------|--------------------------------|
| | | <u>Concur/ Nonconcur</u> | <u>Proposed Action</u> | <u>Implementation Date</u> |
| 1.a. | ASD(ISA) ¹ General Counsel | X ² N/R ³ | X N/R | X X |
| 1.b. | ASD(ISA) General Counsel | X ² N/R | X N/R | X X |
| 1.c. | ASD(ISA) General Counsel | X ² N/R | X N/R | X X |
| 1.d. | ASD(ISA) General Counsel | X ⁴ N/R | X N/R | X X |
| 1.e. | ASD(ISA) General Counsel | N/R N/R | N/R N/R | X X |
| 1.f. | ASD(ISA) General Counsel | X ⁵ X ⁵ | X X | X X |
| 1.g. | ASD(ISA) General Counsel | X ² N/R | X N/R | X X |
| 1.h. | ASD(ISA) General Counsel | X ² N/R | X N/R | X X |
| 1.i. | ASD(ISA) General Counsel | X ² N/R | X N/R | X X |
| 2.a. | Comptroller, DoD ⁶ | X | X | X |
| 2.b. | Comptroller, DoD ⁶ | X | X | X |

¹ Assistant Secretary of Defense (International Security Policy).

² Response should provide reconsideration of position.

³ No further response required.

⁴ Response should state plan of action.

⁵ Recommendation has been revised.

⁶ Response on the draft report not provided.

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Part III - Additional Information

Appendix A. Summary of Potential Benefits Resulting from Audit

| Recommendation Reference | Description of Benefit | Amount and/or Type of Benefit |
|--------------------------|---|-------------------------------|
| 1. | Program Results. Establishes management procedures for more coordinated and efficient administration of international agreements. | Nonmonetary. |
| 2. | Program Results. Establishes accounting procedures for tracking the implementation and effects of international agreements containing financial provisions. | Undeterminable.* |

* The monetary benefits were not readily identifiable because a system to reconcile international agreements to corresponding financial records did not exist.

Appendix B. Organizations Visited or Contacted

Office of the Secretary of Defense

Assistant Secretary of Defense (International Security Affairs), Washington, DC
Assistant Secretary of Defense (International Security Policy), Washington, DC
General Counsel, Washington, DC
Deputy Under Secretary of Defense (International Programs), Washington, DC
Director, Financial Management Policy, Office of the Comptroller of the Department of Defense, Washington, DC

The Joint Staff

Office of the Director, Logistics (J-4), Washington, DC
Office of the Director, Strategic Plans and Policy (J-5), Washington, DC
Office of the Director, Operational Plans and Interoperability (J-7), Washington, DC

Department of the Army

Headquarters, U.S. Army, Atlantic, Fort McPhearson, GA
Headquarters, U.S. Army, Europe and Seventh Army, Heidelberg, Germany
Headquarters, 5th Signal Command, Worms, Germany
Headquarters, 7th Medical Command, Heidelberg, Germany
Headquarters, 200th Theater Army Materiel Management Center, Zweibruecken, Germany

Department of the Navy

Headquarters, U.S. Atlantic Fleet, Norfolk, VA
Headquarters, U.S. Naval Forces, Europe, London, England
Naval Computer and Telecommunications Station, Naval Station, Rota, Spain
Authorization Accounting Activity, Comptroller Office, Naval Station, Rota, Spain

Department of the Air Force

Headquarters, U.S. Air Forces, Atlantic, Langley Air Force Base, VA
Headquarters, U.S. Air Forces, Europe, Ramstein Air Base, Germany
Headquarters, 17th Air Force, Sembach Air Base, Germany
Finance Center, 86th Tactical Fighter Wing, Ramstein Air Base, Germany

Appendix B. Organizations Visited or Contacted

Marine Corps

Headquarters, U.S. Marine Corps, Arlington, VA
Headquarters, Fleet Marine Forces, Atlantic, Norfolk, VA
Headquarters, Fleet Marine Forces, Europe, Eastcote, England

Unified Commands

Headquarters, U.S. Atlantic Command, Norfolk, VA
Headquarters, U.S. European Command, Stuttgart-Vaihingen, Germany

Defense Agencies

Defense Information Systems Agency, Europe, Stuttgart-Vaihingen, Germany
Defense Intelligence Agency, Washington, DC
Defense Logistics Agency, Alexandria, VA

Appendix C. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Policy
Assistant Secretary of Defense (International Security Affairs)
Assistant Secretary of Defense (Public Affairs)
Comptroller of the Department of Defense
Director, Administration and Management
General Counsel
Director, Joint Staff

Department of the Army

Secretary of the Army
Inspector General
Auditor General, U.S. Army Audit Agency

Department of the Navy

Secretary of the Navy
Assistant Secretary of the Navy (Financial Management)
Auditor General, Naval Audit Service

Department of the Air Force

Secretary of the Air Force
Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, U.S. Air Force Audit Agency

Other Commands

Commander, U.S. Atlantic Command
Commander, U.S. Central Command
Commander, U.S. European Command
Commander, U.S. Pacific Command
Commander, U.S. Southern Command

Appendix C. Report Distribution

Defense Agencies

Director, Defense Intelligence Agency
Director, Defense Logistics Agency
Director, National Security Agency
Defense Intelligence Agency Inspector General
National Security Agency Inspector General

Non-DoD Offices

Department of State
Assistant Legal Advisor for Treaty Affairs
Office of Inspector General
Office of Management and Budget
U.S. General Accounting Office, National Security and International Affairs Division,
Technical Information Center

Chairman and Ranking Minority Member of Each of the Following Congressional
Committees and Subcommittees:

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Subcommittee on Readiness, Sustainability, and Support, Committee on
Armed Services
Senate Subcommittee on Conventional Forces and Alliance Defense, Committee
on Armed Services
Senate Committee on Budget
Senate Committee on Foreign Relations
Senate Subcommittee on European Affairs, Committee on
Foreign Relations
Senate Committee on Governmental Affairs
Senate Select Committee on Intelligence
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Subcommittee on Readiness, Committee on Armed Services
House Committee on Government Operations
House Subcommittee on Legislation and National Security, Committee on
Government Operations
House Committee on Foreign Affairs
House Subcommittee on Europe and the Middle East, Committee on Foreign
Affairs
House Permanent Select Committee on Intelligence
House Subcommittee on Oversight and Evaluation, Permanent Select Committee
on Intelligence

Part IV - Management Comments

Assistant Secretary of Defense (International Security Affairs)



INTERNATIONAL
SECURITY AFFAIRS

THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D C 20301-2400

I-93/41988

21 May 1993

MEMORANDUM FOR DIRECTOR, READINESS AND OPERATIONAL SUPPORT
OFFICE OF THE INSPECTOR GENERAL, DOD

SUBJECT: Draft Audit Report on Agreements with North Atlantic
Treaty Organization Allies (Project No. 2RA-0063)

Your draft of a proposed audit report on this subject, dated March 31, 1993, has been reviewed in this office. It appears that the audit was conducted from a purely financial audit standpoint, without a full appreciation of the purpose and complexity of managing international agreements. The Department of State has devoted considerable effort over the years to establish clear guidance and criteria for all U.S. federal agencies on procedures to negotiate and manage international agreements under the Case Act. However, this goal has been very difficult because of the inherent complexity of the subject, and the large numbers of agreements with a wide variety of scope, nature, purposes, and levels of approval.

The recommendations in the draft audit report would further complicate and encumber a system that is already difficult to manage, and the benefit derived from such changes to the system will not justify the greatly increased financial costs and resources required to implement the program. Our staff would require at least one or two additional personnel to implement the proposals for the many thousands of DoD agreements currently in force. General Counsel and each of the unified commands would require an additional individual, for a minimum total of six at a time when personnel are being reduced. We do not understand what use would be made of the additional information to justify these increased costs. Neither the Department of State, nor any other federal agency to our knowledge, requires such information or has such a system.

Because of the inherent complexity of international agreements, there can always be improvements in managing them. We will work with General Counsel to develop procedures which will increase control over them. However, I wish to note that they cannot be quantified in accordance with normal accounting practice for financial matters. Our comments on each recommendation are as follows:

Recommendation (a): Administrative oversight
responsibilities for international agreements within the

jurisdiction of each appropriate unified command should be centralized.

Comments: Such a system is already in place. The legal office at each unified command is responsible for oversight of international agreements within that command. Contrary to the statement on page 8 of the draft audit report, paragraph 9.b. of ED 5-13, dated 16 February 1988 designates the Legal Adviser (ECLA) as being responsible for international agreements within the area of responsibility of the European Command.

Recommendation (b): Would provide a uniform numbering system that identifies financial provisions for international agreements.

Comments: Nonconcur. The draft report seems to imply that only a few agreements, and few provisions thereunder, have any financial implications. In fact many or most agreements, and many provisions thereunder, have some financial implications. For example, many DoD agreements have criminal jurisdiction provisions. Under those provisions commands are authorized to hire local national attorneys to represent the accused, to post bond, and to commit other resources. Agreements often have claims provisions, provisions on payment for services requested and received, disposition of property, labor, etc., each with cost implications. Would there be a separate accounting code for each of these provisions? Each of the Services, the Joint Staff and DoD agencies, including subordinate commands, use these agreements as authorization for their activities. For the information to be of any value, the costs would have to be consolidated at some central point. We do not understand how that information would be consolidated from a wide variety of different organizations that are not connected to the same computer. After considerable costs for such a bureaucratic process, of what value is it to know the total amount of expenditures by DoD for refueling of aircraft transiting Greece in a certain year? The draft report recognizes this fact by stating that "the monetary benefits to be realized by implementing Recommendation 2. were not readily quantifiable...." USAFE knows how much money it spent refueling aircraft in a given year and how much it spent in Greece; however, those amounts are not identified with any specific agreement.

Recommendation (c): Would require renumbering existing international agreements to comply with the numbering system provided upon implementation of Recommendation 1.b.

Comments: Nonconcur, for the reasons stated in recommendation 1.b. Also, it would be very difficult to assign numbers to international agreements which would remain consistent throughout all levels of command. The benefit of such a system is not readily recognizable. International agreements are universally identified, by the Department of State, other federal agencies, and the international community, by the date of their execution.

Assistant Secretary of Defense (International Security Affairs)

Recommendation (d): Would require periodic reviews of master indexes to ensure that the status of agreements is current.

Comments: Concur. We are under the impression that such reviews are currently being conducted, within the limited capabilities of the concerned command, when the indexes are reissued. This requirement will be reemphasized.

Recommendation (e): Would require unified commands and their subordinate commands to prepare an annual list of terminated international agreements for the General Counsel.

Comments: Concur.

Recommendation (f): Would require international agreements to state the designated accounting activity and, when applicable, the appropriation account.

Comments: Nonconcur. There would be numerous accounting activities and appropriation accounts under some agreements. For example, every accounting activity in the European Command would be applicable to the Agreement on Defense Cooperation Between the United States of America and the Kingdom of Spain, dated 1 Dec 1988, and numerous appropriation accounts would apply. Furthermore, the applicable accounting activity and appropriation account may not be known at the time the agreement is concluded and registered in the index.

Recommendation (g): Would require annual reconciliations of unified command master indexes of international agreements with the master index of their subordinate commands.

Comments: Partially concur. An effort will be made to reconcile the master indexes; however, the purpose, use and scope of the indexes is different for various levels of command, and therefore the indexes may not necessarily be identical.

Recommendation (h): Would require annual reconciliations of the unified command master indexes of international agreements with the DoD General Counsel master index.

Comments: Partially concur, with the same limitation as in recommendation g.


Recommendation (i): Would require DoD Components to annually review active international agreements to ensure that agreements support current military requirements.

Comments: Nonconcur. It is extremely difficult for a DoD Component to review an agreement and determine the degree of activity under that agreement. The DoD Component could never be sure that there was not some element in DoD using that agreement.

Assistant Secretary of Defense (International Security Affairs)

It would require the DoD Component to dispatch a worldwide message at all levels of command asking whether any organization is using the agreement. That would have to be done for each of the agreements, presently numbering over 1,000. Even if an agreement is not currently being used, we may not want to terminate it. The agreement would remain on the books as a contingency in event we later want to renew the activity. For example, the United States considers all of the old defense agreements with France to still be in force even though they have not been used for many years. However, if the United States should begin relief operations for Bosnia out of France, some of those old agreements may be revived. Unless the agreement has financial implications or has adverse provisions for the United States, there is no disadvantage to leaving it in force even if it is not being used currently.

Our office is available to discuss these comments with yours. Our point of contact is Frank Stone, X56387.


James L. Woods
For ASD/ISA

General Counsel



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20301-1600

April 16, 1993

MEMORANDUM FOR DIRECTOR, READINESS AND OPERATIONAL SUPPORT
DIRECTORATE, OFFICE OF THE INSPECTOR GENERAL

SUBJECT: Draft Audit Report on Agreements with North Atlantic
Treaty Organization Allies (Project No. 2RA-0063)

This responds to your memorandum of March 31, 1993 seeking review of and comments on the subject project report. This office strongly supports the purpose of the project review and agrees with the recommendations for corrective action with only minor caveats. For example, it is recommended that DoD Directive 5530.3 be amended to require "international agreements to state the designated accounting activity and, when applicable, the appropriation account." Pursuant to recognized international agreements practice, internal implementing procedures of a nation are not included in the text of an international agreement. Nevertheless, this office fully supports the purpose of that recommendation and believes that it can be adopted and implemented in a different manner.

As the DoD office with designated responsibility for DoD Directive 5530.3, we will shortly institute a comprehensive update of that directive. This update will address, in some manner, all of the recommendations of the subject project report, as well as other issues which require updated treatment.

A handwritten signature in cursive script, appearing to read "M. J. Cifrino", is positioned above the typed name.

M. J. Cifrino
Senior Attorney
Office of Deputy General Counsel
(International Affairs & Intelligence)

Joint Staff



THE JOINT STAFF
WASHINGTON, DC

Reply ZIP Code:
20318-0300


DJSM-474-93
11 May 1993

MEMORANDUM FOR THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

**Subject: Draft Audit Report on Agreements with North Atlantic
Treaty Organization Allies (Project No. 2RA-0063)**

1. The Joint Staff concurs in the findings and recommendations of the draft audit report subject to incorporation of the comments in paragraph 1 of the Enclosure. The Joint Staff also provides the comments in paragraph 2 of the Enclosure for your review and consideration.

2. The Joint Staff point of contact is Lieutenant Commander Jane Dalton, USN, extension 46632.


R. C. MACKE
Vice Admiral, USN
Director, Joint Staff

Enclosure

ENCLOSURE

JOINT STAFF COMMENTS ON THE DRAFT AUDIT REPORT ON AGREEMENTS
WITH NATO ALLIES (PROJECT NO. 2RA-0063)

1. The Joint Staff concurs in the draft audit report subject to incorporation of the following comments:
 - a. An estimated date for the implementation of corrective action cannot be forecast until the actions listed in the recommendations are accomplished by the DOD agencies involved. The Joint Staff estimates that MOPs dealing with international agreements can be revised within 12 months after the DOD directive is revised. Unified and specified command directives and Service directives can be revised within 12 months after the MOPs are revised. Implementation of the corrective actions will vary among the commands after the controlling directives are in place.
 - b. The DOD IG report does not directly address international agreements made in Service channels under authority delegated in DOD Directive 5530.3, 11 June 1987, "International Agreements," to the Secretaries of the Army, Navy, and Air Force. The report implies, therefore, that all major problems with the accounting and tracking of international agreements reside in the unified commands. To be complete, the report should be amended to ensure that the management and fiscal tracking systems developed include all agreements concluded by all appropriate joint and service organizations.
 - c. When establishing the uniform, documented, DOD-wide numbering system for international agreements and the reporting and reconciliation procedures, ASD(ISP) and DOD General Counsel should coordinate with the Joint Staff Joint Secretariat to ensure that the numbering system adequately addresses the requirements of the unified commands.
 - d. With respect to Recommendations 1e and 1h, the annual reconciliations of master indexes with the DOD General Counsel index should automatically result in the identification of terminated agreements. Requiring a separate annual list of terminated agreements will be duplicative and unnecessary.
 - e. With respect to Recommendation 1f, recommend the paragraph be changed to read "Requires activities that conclude international agreements to designate an accounting activity and, when applicable, an appropriation account for each

international agreement." As written, Recommendation 1f requires inappropriate disclosure of DOD internal operating procedures, particularly DOD appropriations accounts, to our allies. It could also result in opening an agreement to renegotiation, and possibly triggering the approval and reporting requirements of DOD Directive 5530.3, whenever the accounting activity or appropriations account changes.

f. DOD Comptroller, in conjunction with the Defense Finance and Accounting Service (DFAS), should establish a system to account for and report financial transactions made under the provisions of international agreements. The establishment of such a system should utilize the existing financial accounting systems within the Department of Defense. Although international agreements may be negotiated and signed by the commanders in chief of the unified and specified commands, the support provided and received involves Military Department accounting systems, now under the control of DFAS. The "annual report on disbursements" (item 2b of the Recommendations) is outside the capability of unified commands but within the capability of DOD Comptroller and DFAS. Accordingly, item 2b of the Recommendations should be reworded to reflect the role of DFAS and the Military Department accounting systems. (NOTE: The implementation of such an accounting and reporting system will require the assignment of specific accounting codes and proper use of such codes within DOD and Service logistic and other support systems.)

g. DOD Directive 5530.3 provides procedural guidance for a range of international agreements, many of which rely upon differing legal authorities. If management and/or fiscal controls are required for particular programs, such controls should be keyed to the specific program or legal authority. For example, program guidance for agreements made under the NATO Mutual Support Act is found in DOD Directive 2010.9, 30 September 1988, "Mutual Logistic Support Between the United States and Governments of Eligible Countries and NATO Subsidiary Bodies." Fiscal guidance is found in DOD Directives 2010.9 and 7220.9-M, Chapter 26, October 1983, "Reimbursements," and in unified command and Service regulations. Accordingly, any further expansion or revision of DOD Directive 5530.3 should be done so as to minimize unnecessary duplication of existing management controls.

h. While deferring to the DOD Comptroller, we believe existing guidance in DOD Directive 7220.9-M, Chapter 28, 26 June 1989, "International Agreements," is sufficient to

address most of the administrative and fiscal procedures that must be followed before and after an agreement is concluded. Repetition of existing DOD Comptroller guidance in DOD Directive 5530.3 should be limited to that which is absolutely necessary.

i. Finally, the Joint Staff disagrees with one example cited in the draft report. The report discusses a US Navy and Royal Navy (RN) communications agreement that expired, apparently due to a lack of accurate tracking. There had been discussions, however, between USN and RN representatives concerning agreement renewal before the agreement's expiration. Both sides generally concurred that while renewal was appropriate, under currently existing applicable legal guidelines, available legal, political and administrative resources had been earmarked for renewal or conclusion of agreements with the highest need. Operational personnel did not feel that this agreement fell into a critical need category. In the Navy, authority to negotiate and conclude communications access and exchange agreements has not, by practice or regulation, been delegated. That fact may account for the incognizance on the part of some NAVEUR officials of the renewal status.

2. The Joint Staff provides the following general comments for your review and consideration:

a. Implementation of the recommendations will require additional expenditures in time and manpower by the Joint Staff, its subordinate commands, and the Services not only in the initial transition to a new system but in the annual reconciliation of agreements. For example, the Army either is complying, or in the process of developing procedures in order to comply with, all current DOD requirements with respect to management and control of international agreements. It is currently revising the Army regulation that implements DOD Directive 5530.3. Many of the DOD Inspector General recommendations are addressed in the current draft of the Army regulation. Other recommendations are new. Complying with any new DOD guidance concerning management and control of international agreements will entail significant changes to existing procedures and will require a major commitment of resources. Other Services may be similarly affected.

b. If possible, the new comprehensive numbering, indexing, and reconciliation system should be designed as an automated information management system so that cross-references and updates can be made more efficiently.

Audit Team Members

| | |
|---------------------|--|
| William F. Thomas | Director, Readiness and Operational Support Directorate |
| Harlan M. Geyer | Program Director |
| Evelyn R. Klemstine | Project Manager |
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| Jean M. Jackson | Team Leader |
| Robert E. Beets | Auditor |
| Rhonda R. Swain | Auditor |
| Nancy C. Cipolla | Editor |
| JoAnn B. Fowler | Administrative Support |

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Inspector General, Department of Defense
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